7 + 2 Sub.

App. F. IX-4

Previous References

1934. (Law) (21)

File No. 17-34

Serial Nos. 1

Later References

preserve

ml 16-34 - 52, 53
56, 57, 63 ...
ml 5-34 ... 25, 33, 34, 35, 36
Law-192-36 (1-4)

PRESERVED

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. One

Part B for Mis-34

SUBJECT.

Re prosecution of Sri. B Sivanatha Rao Municipal Councillor Chickballapur Town Municipality for an offence under Sec. 161 I.P.C.

1) 2

Sri D. M. Kolar
" Dy. Police
" President Town Municipal Council, Chickballapur

No. P457 dt 28.7.34

Accord sanction to the above.

Sri. Abdul Aziz
10. 8. 34.

General and Revenue Secretariat | File No. 276 of 1933. | [App. F. III—2

Serial No.

Letter no. HS-C-C 56/33-34 dated 31st May 1934, from the Deputy Commr Kolar district, forwarding the report and record of enquiry received from the President, Bhikballapur Town municipality, regarding a case of bribery by a Councillor and a Municipal Clerk, in connection with the disposal of certain sites in the Bhikballapur Municipality.

The Deputy Commr states that he is in full agreement with the report of the President that the case is a fit one for prosecution and that instead of the Public Prosecutor, the services of the Prosecuting Inspector at Kolar may be permitted to conduct the prosecution.

The President's report explains the facts of the case.

In the absence of a resolution of the Board, to launch a prosecution against the Councillor, the cost incidental thereto will perhaps have to be met from Govt. funds. Whether the case would stand in a court of law is a matter on which the Law Section may be consulted. In this connection, the reference is invited to Para

NOTE—Contn. Sheet.

L 5040

File No. 276 of 1933. | General and Revenue Secretariat

of the President's letter dated 20th May 34 wherein it is stated that the office without scrutinizing the plans granted the petitioner the license in the usual course on 14/4/34, without however specifically mentioning the dimensions of the site. This shows that the office did not exercise effective check in granting the license. ~~The following~~ From a perusal of the license application and the record made thereon, it is seen that the license application of Mr. Moses was sent to the Sanitary Inspector for a report on 8.3.34. who submitted his report on 30/3/34 stating that the license may be granted. Again it was referred back to him to furnish the actual measurements of the site on 31/3/34. He again submitted his report on 4/4/34 that the site measures 140' x 30' ~~length~~ and furnishes the boundaries which corresponds with those mentioned in the license granted on 14/4/34. If the actual dimensions of the site granted to the applicant, has been specifically mentioned in the Sanitary Inspector's report of 4/4/34, there does not appear to be any reason why for omitting the same in the license which was granted on 14/4/34 It

Serial No.

appears therefore that the entries about the dimensions made in the Sanitary Inspector's report and in the plan (marked in blue pencil) seem to be doubtful and that the Sanitary Inspector appears to have failed in his duty in making a proper and definite report in the first instance. The records do not disclose as to what action the President has taken in this matter. This point does not appear to have been noticed in the Dy Commr's office also. If approved the Dy Commr may be requested to obtain due explanations of more responsible and take disciplinary action as regards their conduct. If proper and effective check had been exercised while granting the license much of the troubles could have been saved.

Submitted for orders w

6.6.34

Since the offence for which prosecution is proposed to be launched is under Sec 161 IPC and not under the Municipal Regulation, the sanction to prosecute the Hon'ble Councillor Mr Viswanatha Rao has perhaps to be accorded by the Law Secretary

For favour of opinion if the report may be submitted to the Law Secy.

Asst Secy, Law(s) 11/6
work Compt.

A. Agree: This may be transf'd to the Law Secy

Asst Secy Legy & work Comptt 11/6

Law 10/6

Lawsett) 25/6

Note—Contn. Sheet.

Rec'd 26.6.34

WD 01536—GPB—7,500—5-4-34

4

Law File No. of 1933. | General and Revenue Secretariat

From,

The D.C. Kolar

no. A.S.-C.C. 56/33-34 dt 13.6.34 stating that the President Chickballapur Town Ml. Council reports that the two sites conveyed to Mrs. VithanallaRao and Mrs. Neelakantan, fetched Rs 260/ and 215, respectively when sold in public auction and that it is clear therefore that the sites are very valuable ones.

Facts of the Case are fully reported in the president's letter dated 28th May 1934.

One Mr. VithanallaRao, Ml. Councillor, Chickballapur Town Mly. with the help of one Neelakantaiya, clerk, Municipal Office are said to have attempted to obtain an illegal gratification from a local doctor Mr. Moses, by securing him a site at an upset price from the Mly. and thus getting portions of the site conveyed to their wives respectively, as a sort of reward for their trouble.

The doctor admits in his statement that 2 portions of the site were conveyed to ~~the~~ Mrs. VithanallaRao and Mrs. Neelakantaiya for the favour done to him by their husbands in securing a site for him. It is also mentioned that Neelakantaiya has approached the doctor for the reward on behalf of Mr. Vithanallarao.

Prosecution of Messrs. Visvanatha Rao & another

6863

General and Revenue Secretariat | Govt File No. of 1934. | [App. F. III—2

Serial No.

From the papers available in the file it seems there is a prima facie case against both the individuals to proceed under section 161 I.P.C. The D.C. suggests that this is a fit case for prosecution. As both of them are public servants, sanction of Govt is necessary before launching a prosecution under sec 197 Cr.P.C to ~~to~~ prosecute.

Submitted for orders.

ISD 28/6

The G.A will be consulted if there is a good case for prosecution under sec 161 I.P.C.

Gen Secy) 28/6/34

Govt Advocate with compliments.

28.6.34

28/6

Dy No. 887/33-84 dt 29.6.34

Returned with compliments.

From the facts stated by the President of the Municipal Council, there seems to be a prima facie case against the persons concerned.

That a Municipal Councillor is a public servant is clear from the illustration to section 21 of the Indian Penal Code, and Mr. B. Visvanatha Rao who is a Municipal Councillor is, therefore, a public officer.

G.O. No. 57/34-85 dt 13-7-34.

The

NOTE—Contd. Sheet.

File No. of 193 | General and Revenue Secretariat

The complaint against Mr. Visvanatha Rao is that he used his position as a Municipal Councillor to get Mr. Moses a site and that after the latter was given a site he secured a portion thereof in the name of his wife as a reward for his services. Mr. Moses did convey a portion of the site to Mrs. Visvanatha Rao and another to Mrs. Neelakantiah for and on behalf of her husband Neelakantiah who acted as an intermediary between Mr. Moses and Mr. Visvanatha Rao for the said reward. It was when these shady transactions became public property that the sites were reconveyed to Mr. Moses, apparently to avoid further complications. Some of these circumstances are proved by strong documentary evidence. If the above facts are established by the Prosecution, Mr. Visvanatha Rao, the Municipal Councillor would be guilty under section 161, I.P.C., and the Amin who took an active part in the matter and facilitated the commission of the act in question would be guilty as an abettor.

M. Rangaswami Iyer
Government Advocate.
12.7.1934.

H.

13.7.34

A M'councillor is a 'public servant'
This is clear from Sec 45 of the Local Mts.
Regn. - As the G.A is of opinion that a
prima facie case under Sec 161 I.P.C
exists against Mr. Visvanatha Rao,
Sanction to prosecute may be given
under Sec 197 Cr.P. Code.

Serial No.

The Case is an important one and it is perhaps desirable to entrust the prosecution to the Public Prosecutor. We may have of course the assistance of the Prosecuting Inspector. The Amin will also be a co-accused as an abettor but no sanction to prosecute the Amin is necessary —

Submitted for orders

Gen Secy) BNR 13.7.34

Sanction to prosecute under S 197 Cr. P.C. may be granted.

I doubt if it is necessary to engage the services of the Public Prosecutor in the case.

Second Member. CMR. 14.7.34.

BNR 19.7.34

I agree with the Gl Secy

JPR 20/7

CMR. 20.7.34

Dft Go BNR 21/7/34

OFFICE OF THE SECOND MEMBER OF COUNCIL. 20 JULY 1934 No. 3-C5

8

6807

Law File No. of 1934. General and Revenue Secretariat

DEWAN'S OFFICE
24 JULY 1934
No. 389

TYPING SECTION
G 75 VI
23. JUL. 1934
GENL & REVENUE

Submit with a dft G.O. for appl.

TSD 23/7

Typed draft for submission

ISM
23.7.34

Typed dft put up

TSD 24/7

Submitted for approval.

Under sec 197 the Govt may determine the manner in which & the person by whom the prosecution may be launched - It is ~~so~~ therefore proposed in the G.O ~~to~~ that the President, Chikballapur M[unicipal] C[ouncil] may file the complaint in the First Mysore Ct, Chikballapur -

Gen Secy)

ISM
24.7.34

Dewan.

24.7.34

ISM 24/7

24-7-34

25.7.34

Issue - The copy to be sent to the President has to be signed by the G.S.

ISM 26/7

GENL & R

6961

General and Revenue Secretariat | Law File No. 17 of 1934. | [App. F. III—

Serial No.	
-	To,

the D.M. Kolar

D.S.P.

President Town Mk. Council Chickballapur

No. LAW(2)-1 dated 28.3.34

Regarding sanction to the prosecution of Mr B. Viswanatha Rao Mk. Councillor, Chickballapur

B
1/8/

By Regd Post

In all future correspondence please quote this
No. A5 C C 56/33-34
Encls. One Complete file.

OFFICE OF THE DEPUTY COMMISSIONER,
KOLAR DISTRICT.

Dated, Kolar, the 31st May *1934.*

5648

FROM

T. G. RAMA IYER, Esq., B.A.,
Deputy Commissioner,
Kolar District.

N. & REV. SECTT. 5 JUNE 1934 L.B.O. BRANCH.

Mel 276 - 33

To

By Regd Post
M. VENKATANARANAPPA, Esq., B.A.,
Secretary to Government of Mysore,
Development Department, Bangalore.

SIR,

I have the honor to enclose herein, the report and record of enquiry received from the President, Chikballapur Town Municipality, regarding a case of bribery by a Municipal Councillor and a Munsiff's Court Clerk in connection with the disposal of certain sites in the Chikballapur Municipality. I am in full agreement with the report of the President that the case is a fit one for prosecution. Instead of Public Prosecutor, the services of the Prosecuting Inspector of Kolar may kindly be permitted to conduct the prosecution.

I have the honor to be,
S i r,
Your most obedient servant,

Deputy Commissioner,
Kolar District.

V.V.R.
31534.

GPB—

19

From

The President,
Chickballapur Town Municipality

To
The Deputy Commissioner
Kolar District.

Dated 28th May 1934.

Despatched

Received

General No. L. P No. 41/33-34
No.

Enclosure No. One file

Re:- The disposal of certain sites by Dr Moses in Chickballapur Town.

M.
25.11.39.
Together with the meeting proceedings Book from 14-7-32 to 5-6-35.
BG

C. 470 | 86/37-38
Dy. Commr. Kolar
on 30-5-34
Town Secy.
Encl: XV
Ch.
Municipality
30/5/34

O ffice of the President,Municipal Council
Chickballapur Town Municipality,
Dated Chickballapur,the 28th May 1934

From

C.Krishna Rao,Esquire, B.A.,
President,Municipal Council,
Chickballapur Town Municipality.

To

T.G.R a m a I y e r,Esq.,B.A.,
Deputy Commissioner,Kolar District.

S-i r,

I have the honour to report for your information the particulars of an interesting case,in which a Municipal Councillor,an official of the Munsiff's Court and a local Medical Practitioner have conspired to-gether to commit a fraud on the Municipality,but,un-luckily for them,the plot fell through under the following circumstances.

2 One Dr.Moses,a private Practitioner of this place applied (A) to the Municipality on 19-9-33 for the grant of a site measuring 60' x 20' for putting up a Dispensary to the South-west of the Town Hall. The Municipal Council,after inspecting and measuring the site at the instance of Pleader Mr. B.Viswanatha Rao,one of the Municipal Councillors,resolved (B) on 24-11-33 to grant the site actually measuring 52'x27' to the Doctor for an up-set price of Rs 40/-.An endorsement (C) to this effect was also served on the Doctor on 25-12-33.The Doctor paid the money on 2-1-34 and on 6-1-34,he presented an application (D) - in the hand-writing of Mr.B.Viswanatha Rao - to the President praying for the grant of a sale certificate and

the same was pending compliance in the office

3 As certain trees stood on this site as well as in its vicinity,the Municipality desired (E) the Doctor to pay their malki value,which was fixed at Rs 3/- and the same was paid by him and the site was also cleared of these trees.

4 On 2-3-34,the Doctor applied (F) for a license to build on the site granted to him and later on furnished a plan (G) of the proposed Dispensary building. It is curious to note that in this plan,the Doctor assumes that the whole site measuring 140' x 30'-of which only 52'x27' was granted to him - as belonging to him and the office,without scrutinising the plan,granted him the License (H) in the usual course on 14-4-34,with-out however specifically mentioning the dimension of the site.

5 On 1-5-34,the Sanitary Inspector gave me a report (J) to the effect that the Doctor was trying to build on the entire site 140'x30 ' (JJ) and added verbally that it was strongly rumoured in the town that portions of this site were conveyed and re-conveyed between the Doctor and the wives of Mr.B.Viswanatha Rao and Neelakantappa,his friend. I instructed him to verify this matter and report to me definitely after my return to Head Quarters from camp on the 9th instant.He accordingly informed me after my return from Gudibanda,that the report re disposal of the site was true. I then obtained from the Sub-Registry office,copies of the conveyance and re-conveyance (K.L.M.&N) registered in his office on 23-4-34 and 27-4-34 respectively. The conveyances show that the Doctor sold sites measuring 32' x 30' each to Laxmidevamma and Mallamma. I there-upon instituted enquries and examined all the persons connected with this transaction except the two ladies,who,for

obvious reasons, were let alone. The stamp vendor Laxminarayanarao and attestor Achappa appear to have been fore-warned.

6 According to Doctor Moses (O), the idea of his applying for this site emanated from Mr.B.Viswanatha Rao, who took him (P) to the Sub-Division officer (Mr.Khalak) and recommended his application for the grant of the site. It is Mr.B.Viswanatha Rao who fought in the Council and secured (Q) the site for the Doctor for an up-set price . It is Mr.B.Viswanatha Rao, who helped the Doctor (R) in the construction of the building. It is Mr. B.Viswanatha Rao again who represented to the Doctor that he had secured the whole site for him. It is he, who, at a later stage, wanted to be re-imbursed for all his troubles and in fact, suggested through his friend Neelakantaia that a portion of this site may be made over to him. It is Mr.B.Viswanatha Rao who gave the draft in his own hand of the conveyance of the site by the Doctor to his wife Laxmidevamma and another portion of it to Neelakantappa's wife Mallamma. It is his friend Neelakantaia, who purchased the stamp papers required for the conveyance.

7 Though Mr.B.Viswanatha Rao and Neelakantia are un-connected with the re-conveyance of the sites by Laxmidevamma and Mallamma to the Doctor, the latter's version as to the circumstances which led to the re-conveyance appears natural and probable. The Doctor's version, on the whole, seems credit-worthy and at the same time, it receives ample corroboration from the following circumstances.

i Mr.B.Viswanatha Rao was not un-aware of the site and and its dimensions as finally sanctioned by the Municipal Council, as according to the Sanitary Inspector (T) and Mr.Khalak (P) he pressed the grant on behalf of the Doctor and in fact he took out the Councillors and had the site measured before the Council resolved on the

grant. Mr.B.Viswanatha Rao in his statement does not also pretedd to be ignorant of the dimension of the site granted to the Doctor.

ii then his friend Neelakantaia procures (S) the two stamp papers in the name of the Doctor,presumably,on the instructions of Mr.Viswanatha Rao and curiously enough,the Stamp Vendor's register does not contain the the signature of the actual purchaser of the stamp paper. (U)

iii Mr.B.Viswanatha Rao furnishes the drafts of the two conveyances in his hand-writing through his friend Neelakantaia.

iv Mr.Viswanatha Rao takes (V) the attestation of Srinivasa Rao to the two documents on 23-4-34 and

v Both documents are attested by the same set of witnesses,both are presented simultaneously before t h e Sub-registrar and the executants of both are identified by one the same person Viz. N.R.Nanjundappa at the instanc of Neelakantaia (W).

Both Mr.Viswanatha Rao and Neelakantaia in whose wives' names the site was first conveyed by the Doctor pretend not to know any-thing about the first transaction. They admit (X andY) that Dr.Moses is their family Doctor and that they have helped him by supervising his hospital construction . It is most unlikely that the Doctor would make a false allegation against his own friends to whom he is obliged and they could possibly have no motive to do so. It is not easy to make out what made h i m sell portions of sites to their wives. It is difficult to believe that Laxmidevamma and Mallamma would procure of their own accord the ownership of these sites independently of their husbands. It

is indirectly suggested in the statement of Neelakantaia (Y) that the Doctor in his anxiety to reward the services of Mr.B. Viswanatha Rao and himself in supervising the construction of his building ,gratuti gratuitously conveyed the sites to their wives without Mr.B.Viswanatha Rao and Neelakantaia or their wives ever knowing of the same.This is palpably improbable. These improbabilities render the statements of Mr.B.Viswanatha Rao and Neelakantaia un-worthy of belief. The two sites are of no insignificant value. One contractor Ramaia setti (Z) has offered Rs 225/- for this site and another Venkatarayappa has offered Rs 450/- there-for. They are situated in an excellant locality. Their applications are pending before the Council.

9 Prima facie (5) Mr.B.Viswanatha Rao,who,as defined by Section 48 of the Municipal Regulation is a public servant has attempted to obtain illegal gratification from the Doctor viz the two sites worth nearly Rs 500/- and has in consequence rendered himself liable for prosecution under Section 161 I.P.C and Neelakantaia his friend has abetted the commission of the said offence.

10 Mr.B.Viswanatha Rao is a Pleader of standing and Neelakantaia is an official of the Munsiff's Court.It is high time that mal-practices of this nature by two such responsible individuals should be put a stop to. I would there-fore request you to be so good as to obtain sanction of Government under Section 197 of the Criminal Procedure Code to prosecute the former, who is a Muncipal Councillor,under Section 161 I.P.C and to engage the services of the Public Prosecutor to conduct the said case on behalf of Government against these two individuals. I consider that in the interests of the purity of the Muncipal administration generally,the prosecution recommended is necessarily called for.

called for.

The entire records are forwarded here_with as per farist.

I have the honour to be,

S i r,

Your most obedient servant,

G. Krishna Rao

P r e s i d e n t,

Chickballapur Town Municipality,

Report of the Dy
Chief Accounts
Officer to the Govt
Chief Accounts
Officer 13-1-38

for reg in OJ No
420/36-37 with
file of Court

13/1/38

Confidential.

In all future correspondence please quote this
No. A.5-C.C.56/33-34.
Encls.

Rf 276-33-2 6863/33

OFFICE OF THE DEPUTY COMMISSIONER,
KOLAR DISTRICT.

Dated, Kolar, the 13th June *1934.*

5848/I

FROM

T. G. RAMA IYER, Esq., B.A.,
Deputy Commissioner,
Kolar District.

5648 Hsdm 1/6.

M. Venkatanaranappa, Esq., B.A.,
Secretary to Government of Mysore,
Development Department, Bangalore.

5648/I

In continuation of my letter No:A.5.C.C.56/33-34 ed 31st May 1934: regarding the disposal of Municipal es at Chikballapur by Dr. Moses, I have the honor to te that the President of Chikballapur Town Municipal ıcil reports in his letter No:L.P.No:41/33-34 dated ı June 1934 that the two sites conveyed to Mrs.Visva- ıa Rao and Mrs. Neelakantia fetched Rs.260/- and 215/- spectively when sold in public auction. It is clear- erefore that the sites are very valuable ones.

I have the honor to be,
S i r,
Your most obedient servant,
Deputy Commissioner,
Kolar District.

matter file has been sent to Law Section for opinion. as if approved he submits draft. 5634. 27.6.34 I think the matter should be referred to the Law Secretary for perusal. Hsdm 2/7/6

Proceedings of the Govt. of His Highness
the Maharaja of Mysore.

R E A D:

Letter No.A5 C.C. 56/33-34 dated 31st May 1934 from the Deputy Commissioner, Kolar forwarding a report and record of enquiry received from the President, Chickballapur Town Municipality, ~~which shows~~ regarding a case of a Municipal Councillor Mr.B.Viswanatha Rao, ~~taking or attempting to take an illegal gratification~~ in connection with the disposal of a certain site in the Chickballapur Municipality and soliciting sanction of Government - under Section 197, Criminal Procedure Code to prosecute the said Mr.Viswanatha Rao for an offence under Section 161 Indian Penal Code, the Prosecuting Inspector of Kolar being permitted to conduct the prosecution.

receiving or attempting to take an illegal gratification against

Order No. P.457-59/Law 17-34-1

Dated Bangalore, 24th July 1934.

28

Under Section 197, Criminal Procedure Code, sanction is accorded to the prosecution of Mr.B.Viswanatha Rao, Municipal Councillor Chickballapur Town Municipality for an - offence under Section 161, Indian Penal Code alleged to have been committed by him in connection with the disposal of certain sites in Chikballapur Town by Dr. Moses.

as in force in Mysore

P.T.O.

The President, Chikballapur Municipal Council is authorised to take necessary action in filing a complaint in the court of the First Class Magistrate Chikballapur. The District Magistrate, Kolar will issue instructions to the Prosecuting Inspector of Kolar to conduct the prosection.

General Secretary to Govt.

To

The District Magistrate, Kolar.

The Inspector General of Police.

The President, Town Municipal Council
Chickballapur through the Deputy Commr.
Kolar.

C/B to L.S.G. Br.

TSS.

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

Read:—

Letter No.A.5.C.C.56/33-34 dated the 31st May 1934 from the Deputy Commissioner, Kolar District, forwarding a report and record of enquiry received from the President, Chickballapur Town Municipality regarding a case of receiving or attempting to take an illegal gratification against a Municipal Councillor, Mr.B.Visvanatha Rao in connection with the disposal of a certain site in the Chickballapur Municipality and soliciting sanction of Government under Section 197, Criminal Procedure Code to prosecute the said Mr.Visvanatha Rao for an offence under Section 161, Indian Penal Code, the Prosecuting Inspector of Kolar being permitted to conduct the prosecution.

Order No. P 457-59 dated 17-7-34

Bangalore, 27th July 1934.

Under Section 197, Criminal Procedure Code, sanction is accorded to the prosecution of Mr.B.Visvanatha Rao, Municipal Councillor, Chickballapur Town Municipality for an offence under Section 161, Indian Penal Code as in force in Mysore, alleged to have been committed by him in connection with the disposal of certain sites in Chickballapur Town by Dr. Moses.

The President, Chickballapur Municipal Council is authorised to take necessary action in filing a complaint in the court of the First Class Magistrate, Chickballapur. The District Magistrate, Kolar, will issue instructions to the Prosecuting Inspector of Kolar to conduct the prosecution.

General Secretary to Government

To
The District Magistrate, Kolar.
The Inspector-General of Police in Mysore.
The President, Town Municipal Council, Chickballapur, through the Deputy Commissioner, Kolar District.